

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(NEWARK VICINAGE)**

SUZANNE DRAKE
Plaintiff

v.

COLONIAL RV, THOR INDUSTRIES,
INC., AND MERCEDES-BENZ USA,
LLC
Defendants

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CIVIL ACTION NO.

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ON NOTICE TO:

Timothy J. Abeel, Esquire
Timothy J. Abeel & Associates, P.C.
25 Regency Plaza
Glen Mills, PA 19342
Attorney for Plaintiff

PLEASE TAKE NOTICE that Defendant Airstream, Inc. (incorrectly identified as Thor Industries, Inc. (hereinafter “Removing Defendant”) hereby removes this action to this Honorable Court pursuant to 28 U.S.C. §1332 and 1441, with full reservation of any and all defenses and objections.

In support of this Notice of Removal, Removing Defendant respectfully submits as follows:

1. Removing Defendant desires to exercise its right under the provisions of 28 U.S.C. § 1441 to remove this action from the New Jersey Superior Court for Union County, where the case is now pending under the name and style, Suzanne Drake v. Colonial RV, Thor Industries, Inc. and Mercedes-Benz USA, LLC, bearing Docket No. UNN-L-3116-18.

2. A copy of the Complaint filed by Plaintiff on September 11, 2018 in the New Jersey Superior Court for Union County is attached as Exhibit “A.”

3. The within Notice of Removal is hereby filed within thirty (30) days of Removing Defendant's first receipt of proper service of Plaintiff's Summons and Complaint. See 28 U.S.C. § 1446(a) and (b).

4. In her Complaint, Plaintiff seeks to recover damages while claiming the use, value and/or safety of a 2015 Airstream Interstate Ext bearing the Vehicle Identification Number WD330F4CD9FP116844 and purchased on July 8, 2015 was substantially impaired as a result of a defect, condition or nonconformity. Plaintiff assert a federal claim under the Magnuson-Moss Warranty Act, 15 U.S.C. §2301, et seq. as well as claims for a breach of warranty arising under state law. See Exhibit "A" at Count II.

5. Any civil action over which a district court has original jurisdiction may be removed to the district court embracing the place where such action is pending. See 28 U.S.C. § 1441(a).

6. A district court has original jurisdiction of all civil actions arising under the laws of the United States. See 28 U.S.C. § 1331. This action arises under a federal law because Plaintiff's Complaint includes a claim under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, et seq.

7. Although the Magnuson-Moss Warranty Act does not allow actions to be removed to federal court if the amount in controversy is less than \$50,000.00, See 15 U.S.C. § 2310(d)(3), the amount in controversy threshold is satisfied in this case as Plaintiff's Prayer for Relief seeks an "amount equal to the price of the subject vehicle." See Exhibit "A" at ¶ 29.

8. Plaintiff alleges the purchase price of the subject vehicle to be \$129,929.00. See Exhibit "A" at ¶7.

9. Under 28 U.S.C. § 1367, when a federal court has original jurisdiction of one claim, it has supplemental jurisdiction over any other claims that are part of the same case or controversy. Plaintiff's state law claims in this action form the same case or controversy as their Magnuson-Moss Warranty Act claim. Therefore, this Court has supplemental jurisdiction over Plaintiff's state law claims.

10. The New Jersey Superior Court for Union County is located within the district for the United States District Court for the District of New Jersey - Newark Vicinage.

11. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and Orders that have transpired in the State Court Action have been attached at Exhibit "A."

12. In compliance with 28 U.S.C. § 1446(d), Removing Defendant will, upon receipt of a federal court docket number, promptly serve the Clerk for the New Jersey Superior Court for Union County with a true and good copy of the within Petition for Removal.


13. All Defendants are unanimous in this Removal Petition.

WHEREFORE Defendant Airstream, Inc. (incorrectly identified as Thor Industries, Inc.) prays that the above action now pending against it in the New Jersey Superior Court for Union County be removed to this Honorable Court.

Respectfully submitted,

PISANO LAW FIRM

By: _____


Matthew T. Pisano, Esquire
Attorney for Defendant
Airstream, Inc. (incorrectly identified as Thor Industries, Inc.)

Date: _____

10/12/18

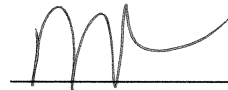
LOCAL CIVIL RULE 11.2

I, Matthew T. Pisano, Esquire hereby certify pursuant to Local Civil Rule 11.2, that the above captioned matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Respectfully submitted,

PISANO LAW FIRM

By:



Matthew T. Pisano, Esquire
Attorney for Defendant
Airstream, Inc. (incorrectly identified as Thor
Industries, Inc.)

Date:

10/12/18